

Substitute Form PTO-1449 (Modified)  <b>Information Disclosure Statement by Applicant Protester</b> (Use several sheets if necessary)  (37 CFR §1.98(b))	U.S. Department of Commerce Patent and Trademark Office	Attorney's Docket No. <b>00315-002LL1</b>	Application No. <b>09/902,904</b>
	Applicant <b>Steven Dunn et al.</b>		
	Filing Date <b>July 11, 2001</b>	Group Art Unit <b>3749</b>	

U.S. Patent Documents							
Examiner Initial	Desig. ID	Patent Number	Issue Date	Patentee	Class	Subclass	Filing Date If Appropriate
/S.G./	AA	499,881	06/20/1893	Goldstein			
/S.G./	AB	2,039,927	05/05/1936	Poglein			
/S.G./	AC	2,441,417	05/11/1948	Hopkins			
/S.G./	AD	2,472,028	05/31/1949	Son			
/S.G./	AE	2,879,900	03/31/1959	Fox			
/S.G./	AF	2,936,898	05/17/1960	Miguez			
/S.G./	AG	3,730,354	05/01/1973	Bronstein			
/S.G./	AH	4,238,035	12/09/1980	Kassanchuk			
/S.G./	AI	5,287,636	02/22/1994	Lafleur et al.			
/S.G./	AJ	5,492,237	02/20/1996	Chang			

Foreign Patent Documents or Published Foreign Patent Applications								
Examiner Initial	Desig. ID	Document Number	Publication Date	Country or Patent Office	Class	Subclass	Translation	
							Yes	No
/S.G./	AK	160,098	03/17/1921	Great Britain				
/S.G./	AL	CH 685919 A5	11/15/1995	Switzerland			x	
/S.G./	AM	403.288	10/29/1909	France			x	

Other Documents (include Author, Title, Date, and Place of Publication)		
Examiner Initial	Desig. ID	Document
/S.G./	AN	Product Literature of Safety 1st entitled "Bottle & Nipple Drying Rack," 1996
/S.G./	AO	Product Literature of Mommy's Helper, Inc. entitled "Drain 'N Dry Bottle Drying Rack," 1996

Examiner Signature <b>/Stephen Gravini/</b>	Date Considered <b>06/07/2010</b>
EXAMINER: Initials citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	

Reissue Applicant : Steven Dunn et al. Art Unit : 3749 #3  
 Application No. : 09/902,904 Examiner : Pamela Anne Wilson  
 Filed : July 11, 2001 Status : First office action mailed  
 Original Patent : 6,038,784 January 11, 2002 rejecting all  
 Issued : March 21, 2000 claims  
 Title : BOTTLE RACK

Commissioner for Patents  
 Washington, D.C. 20231

PROTEST UNDER 37 CFR 1.291(a)

The First Years Inc., a Delaware corporation, having a place of business at 26822  
 Dimension, Suite 230, Lake Forest, California 92630, protests the reissue application, above  
 identified. Although the application file indicates publication of notice of the reissue application  
 in the Official Gazette on September 18, 2001, it does not appear that such notice was in fact  
 then published. Attached as Exhibit A are copies of the Official Gazette pages containing reissue  
 notices which were published on September 18, 2001, which omit reference to the subject  
 application. Thus, this protest is believed to be timely filed.

Prior Art Relied Upon

The prior art relied upon comprises patents already before the Examiner as well as  
 publications cited to the Examiner in the file of the original application for Patent 6,038,784  
 ('784 patent). The patents and publications relied upon are set forth below and in the  
 accompanying Information Disclosure Statement, Form 1449, attached as Exhibit B. Copies  
 thereof, including translations of the included Swiss and French patents, are attached as  
 Exhibits C-Q. They are, as follows:

- C: Great Britain Patent 160,098
- D: A.J. Son Patent 2,472,027
- E: J. Miguez Patent 2,936,898
- F: Jerry N. Kassanchuk Patent 4,238,035
- G: Kil J. Chang Patent 5,492,237
- H: Swiss Patent CH 685919 A5
- I: Benjamin Bronstein Patent 3,730,354
- J: André Lafleur Patent 5,287,636
- K: Safety 1st product literature
- L: Mommy's Helper product literature
- M: J.E. Fox Patent 2,879,900

RECEIVED

APR 05 2002

TECHNOLOGY CENTER R3700

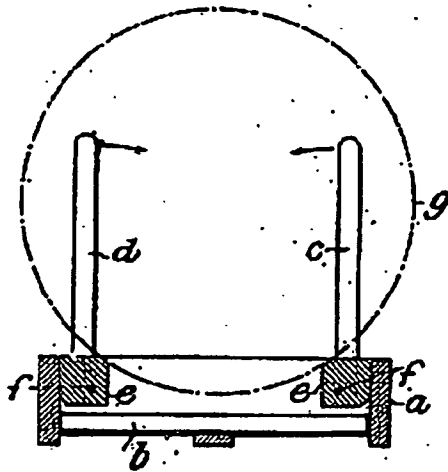
N: French Patent 403,288  
 O: T.J. Hopkins Patent 2,441,417  
 P: L. Poglein Patent 2,039,927  
 Q: D. Goldstein Patent 499,881

Concise Explanation of Relevance of Prior Art

In the Office Action of January 1, 2002, the Examiner rejected application claims 1, 3 and 8 as anticipated by British Patent 160,098 (British '098). Claims 22-31, 37-38 and 48 were rejected as claiming matter not adequately supported and defined in the specification. Claims 2, 4-7, 9-21, 32-36 and 39-46 were indicated to be allowable if rewritten to overcome rejection(s) under 35 U.S.C. §112, second paragraph. Presumably, claims 47 and 49 would likewise be indicated to be allowable upon amendment of the incorrect claim dependency.

First it is submitted that all of claims 1-8 are unpatentable as anticipated by both the British '098 patent, Exhibit C, and Son U.S. Patent 2,472,028 (Son '028), Exhibit D.

Fig. 3 of the British '098 patent is reproduced below.



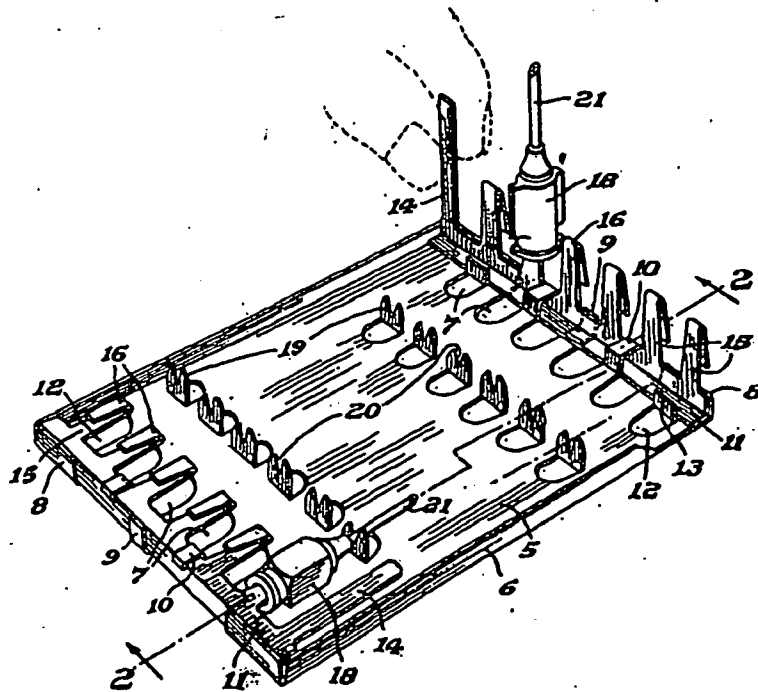
In rejecting application claims 1, 3 and 8, the Examiner described the anticipatory British '098 patent, as follows (Office Action, pp. 7-8):

Claims 1, 3 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by The British Patent No. 160,098. The British Patent No. 160,098 (British Patent '098) discloses an apparatus for storing an article which

includes a tray having a bottom face that is adapted to be supported by an underlying surface, an upper face, a plurality of pegs extending outwardly from the upper face. These pegs are permanently mounted to the tray and are capable of being positioned adjacent to the upper surface of the tray for the purpose of storage of the apparatus; and further, the pegs are also capable of being positioned so as to extend outwardly from the upper surface so as to enable the support of an article on the upper surface of the apparatus. The British '098 patent further includes a collection reservoir for collecting any liquid which might run out or off of the articles while being supported on the upper surface of the tray.

That description is essentially applicable, as well, to the Son '028 patent. Son, in addition, supports objects directly on the "fingers," as he describes them, which correspond to the "pegs" of the pending application.

Fig. 1 of the Son patent is reproduced below.



The Son '028 patent, which was not cited in the examination of the original application for the '784 patent, discloses a tray having permanently mounted at each end a hinged member

11 with a plurality of pegs (fingers 15) extending therefrom to support hypodermic syringes and needles. Tabs 8, 9 and 10 on the tray engage the member 11 to hold the pegs in either of two positions, as stated in the Son patent at Col. 1, lines 3-7:

...so that they [the hypodermic syringes and needles] may either be disposed flat for convenience in packaging or carrying them or disposed in an upright position when they are to be sterilized or one of them is to be removed for use.

The Son '028 patent discloses every element of claim 1 of the pending application. Claim 1 calls for a tray to be supported on a surface, a plurality of pegs, each peg sized and arranged to support an article, and each peg permanently mounted to the tray for movement from a storage position adjacent the tray to an extended position. According to the claim, the movement of the pegs enables the apparatus to be folded for packaging and storage. Each of these elements, as well as the specific function, is shown and described in combination in the Son '028 patent. Thus, the Son '028 patent, as well as British '098 patent, anticipates claim 1.

Turning to the claims dependent on claim 1, directly or indirectly, claim 2 requires that each peg be mounted to the tray in a manner such that no standing water can collect at the point where the peg is mounted. The British '098 patent mounts the pegs c to bars or axles e at pivots f well above tray b which collects water. The pegs or fingers in the Son '028 patent extend outwardly from the edge of member 11 and are spaced well above the tray surface in both the horizontal and vertical positions and are thus mounted where no standing water can collect. Both the British '098 patent and the Son '028 patent anticipate claim 2.

Claims 3, 4 and 5 can be read together. Thus claim 3 requires that the pegs be moveable only about a single axis. Claim 4 requires "means" for imparting lateral stability to the pegs. Finally Claim 5 specifies that such "means" comprises an axle joining adjacent pegs "for common, ganged movement about a common axis of rotation." The specification of the application states (Col. 3, lines 39-42 [par. 4] and Col. 5, lines 1-5 [par. 1]):

[I]n the illustrated embodiment of the invention four pegs 18 are constrained for common, ganged movement in an arc about a common axis of rotation that is created by a first axle 22 ....

\* \* \*

Mounting structure 20, by ganging adjacent pegs 18 and adjacent nipple support members 32 together by use of a common axle, thereby imparts lateral stability to the pegs 18 and the nipple support members 32, further deterring any motion other than about the single axis of rotation.

Member 11 of the Son '028 patent comprises a sheet metal member having two portions forming a right angle, and integral pegs extending from one of the sections (see esp. Fig. 2). Each member 11 is boxed by tabs 8, 9 and 10 extending from the tray such that it rotates with the pegs and otherwise performs the functions of the axle of the pending application. Thus, member 11 is also an axle in the sense of that word as used in the application. Clearly, member e of the British '098 patent is likewise an axle. The structures of both the British '098 patent and the Son '028 patent meet the limitations of claims 3, 4 and 5, mounting adjacent pegs or fingers to axles e in the British '098 patent and to member 11 of the Son '028 patent which, in each patent, rotate adjacent pegs in common, ganged movement about a single axis. Accordingly, the British '098 and the Son '028 patent anticipate each of claims 3, 4 and 5, not just claim 3.

Claims 6 and 7 can also be read together. Claim 6 requires "location means" for locking the axle of claim 5 with the pegs in an extended position and claim 7 requires that the location means be connected to the axle for frictional engagement with the tray. Since claims 6 and 7 are "means" claims we need to refer to the specification of the application to determine its proper construction. The specification, Column 4, lines 16-28 (par. 2), refers to the "locating means" as a "locating structure," as follows:

As may be seen in Fig. 4, locating structure 26 includes a cam member 43 having a lower surface 44 that is constructed and arranged to bear against the upper face 16 of tray 12 and a forward surface 46 that is constructed and arranged to come into contact with a rear surface 44 of a cam stop 42 that projects upwardly and is unitary with the upper face 16 of tray 12. Fig. 1 and Fig. 4 both depict the locking structure 26 in the second, operative position. The path between the first and second positions is indicated in Fig. 4 by arrow 46. The nipple support member 32 is prevented from bending backwardly in the direction away from the first storage position by contact of the forward surface 46 of cam member 43 with the rear surface 44 of cam stop 42.

The Son '028 patent identically discloses the features of claims 6 and 7. Son has a cam member with a lower surface, the bottom of the angled member 11, which extends at a right angle to the wall from which the pegs 16 extend, which is constructed to bear against the upper face of tray base 5. Member 11 also has a forward surface, the side of angled member 11, which extends vertically when pegs 16 are erect, which comes into contact with a rear surface of a cam stop, i.e., vertical tray end wall 9, that projects upwardly above and is unitary with the tray. The pegs are prevented from bending backwardly in a direction away from a storage position by contact of the forward surface of the cam member and the rear surface of the cam stop (end wall 9). As stated in the Son '028 patent (Col. 2, lines 26-30):

While any type of hinge means may be used to connect the members 11 to the base 5, I prefer that it be such as to resiliently hold the member in either of its positions.

Accordingly, every element of claims 6 and 7 is anticipated by the Son '098 patent.

Claim 8 which claims a collection reservoir in the tray of claim 1 for collecting liquid has correctly been held by the Examiner to be anticipated by the British '098 patent. In this connection see also Miguez U.S. Patent 2,936,898, Exhibit E, which illustrates in Fig. 2 a reservoir for water draining from dishes in a dish drying rack.

Unlike claims 1-8 which, as discussed above, are directly anticipated by the British '098 patent and the Son '028 patent, claim 9 and subsequent claims are limited to apparatus for baby bottles or accessories and in certain claims positively recite structure specifically useful in drying the baby bottles and components thereof. Since the British '098 and the Son '028 patents do not relate to baby bottles and components, per se, it is necessary to consider whether the claimed subject matter, except claim 19, which as will be seen is anticipated by other art, would have been obvious to one of ordinary skill in the art at the time the invention was made.

Referring to the art cited by the Examiner during prosecution of the original application for the '784 patent, drying racks with fixed, non-folding supporting pegs were shown in Kassanchuk, U.S. Pat. 4,238, 035 (Exhibit F). The pegs of the '035 patent included long pegs to support bottles and short pegs functioning as nipple and ring support members. Horizontal bars connected to the nipple and ring support members function as stops preventing rings from contacting the rack bottom or supporting surface. The front pair of horizontal bars also function to define multiple slots to receive bottle disks and to support them above the rack bottom and supporting surfaces. See Col. 3, lines 20-39 and see Fig. 2. A folding bottle drying rack was also shown in the cited Chang U.S. Pat. 5,492,237 (Exhibit G) which also had long and short pegs for supporting bottles and the like. In Chang the drying rack collapsed and folded about vertical axes for compact storage. In addition, Swiss Patent 682,919, Exhibit H, which was not cited by the examiner in the original application, discloses a tray having fixed long pegs 8 for supporting baby bottles, short pegs for holding nipples, and cone-shaped members for supporting bottle rings and discs above the tray. See Fig. 2.



In addition to the foregoing patents, the prior art includes a non-folding Bottle and Nipple Drying Rack sold by Safety 1st. This product is illustrated in packaging, Exhibit K, bearing a 1996 copyright. The applicant submitted Safety 1st's packaging for the Examiner's consideration during examination of the application for the '784 patent but the Examiner declined under PTO rules to consider this art because its place and date of publication had not been identified in the submission. Note in this connection that another prior art publication showing a bottle drying rack, Mommy's Helper -Drain 'N Dry Bottle Drying Rack, Exhibit L\*, was also submitted by the applicant and disregarded by the Examiner. These items of art are acknowledged as prior art in the specification of the '784 patent at Col. 1, lines 23-36, and were cited in U.S. Patent 6,125,548 which was a division of the application for the '784 patent and is the subject of copending reissue application 09/902,965. The applicant did not cite these publications in the pending application for reissue of the '784 patent.

Drying racks for other products are also shown in the prior art. The British '098 and the Son '028 patents, Exhibits C and D, which have folding pegs, have already been discussed. Bronstein U.S. Pat. 3,730,354, Exhibit I, and Le Fleur et al. US Pat. 5,287,636, Exhibit J, both disclose boot drying racks which are foldable for storage.

Turning then to the claimed subject matter in relation to the prior art, as noted previously, the British '098 and the Son '028 patents anticipate claim 1 but do not disclose use for drying baby bottles and accessories. The British '098 and the Son '028 patents and the other non-bottle drying collapsible racks nevertheless remain pertinent as analogous prior art since collapsing racks for storage addresses the same problem in both the prior art and the '784 patent as is set forth in the claims, e.g., mounting a "peg to support an article" in one position "wherein said apparatus can... be folded for packaging and storage purposes." (Emphasis supplied). As stated in In re Clay, 966F.2d 656, 658-9 (Fed. Cir. 1992):

Two criteria have evolved for determining whether prior art is analogous (1) whether the art is from the same field of endeavor, ... and (2) if ... not..., whether the reference is still reasonably pertinent to the particular problem with which the inventor is involved.

---

\* A better copy of the Mommy's Helper reference, Exhibit L, is believed to be present in the file wrapper of the original application, Ser. No. 09/113,868 for U.S. Patent 6,038,784 to which this reissue application is directed.

The Safety 1st and Mommy's Helper prior art, Exhibits K and L, described in the introductory portion of the '784 patent establish that it was known to provide a tray with long pegs to support bottles and short pegs to support nipples and bottle rings. The Chang '237 patent and the Swiss '919 patent, Exhibits G and H, have the same disclosure. The Kassanchuk patent, Exhibit F, made similar provisions in a wire rod structure not having its own tray. Indeed, all of this art includes stops above the bases of the short pegs to support the rings above the supporting surface.

All that was missing from these devices was the ability to collapse them for storage. Yet this feature in a bottle drying rack with long and short pegs was known from the Chang '237 patent, Exhibit F. There the concept of a collapsible rack with both long and short pegs was known. The British and Son patents simply collapse their structures about horizontal axes rather than the vertical axes about which Chang's structure folds. The suggestion of folding racks existing in the art, the skill of the art and the motivation in adapting fixed structures to collapsing structures is demonstrated in Chang and its reference to earlier art. That the British and Son patents are applicable prior art to the claims specific to baby bottle and accessory drying is manifest from the Supreme Court decision in Graham v. John Deere Co., 383 U.S.1 (1965) in which it was argued that certain prior art was not pertinent to claims involving a pump sprayer for insecticides. The Supreme Court stated (p. 35):

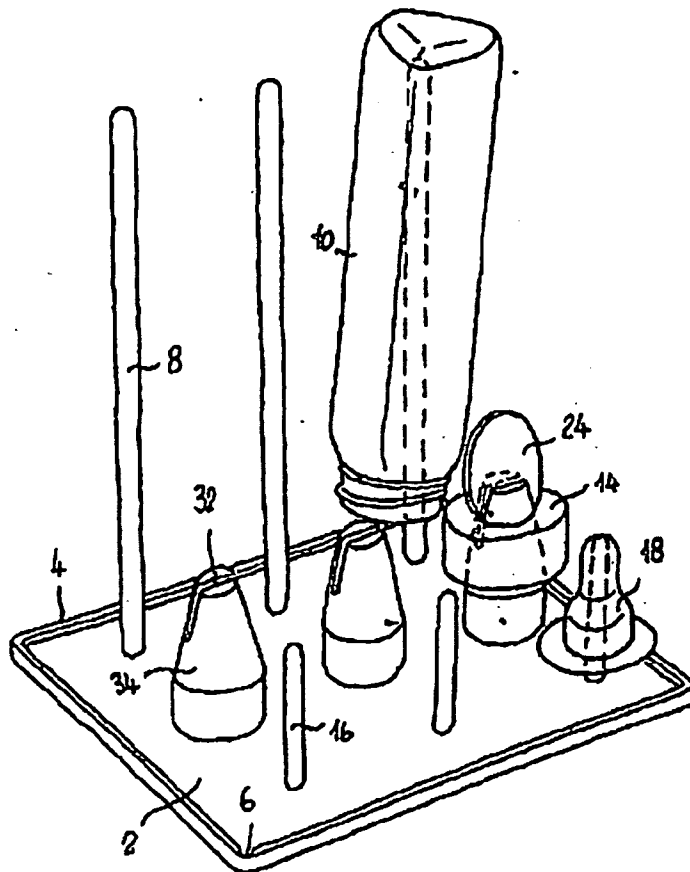
Cook Chemical argues... that Livingston is not pertinent prior art because it relates to liquid containers having pouring spouts rather than pump sprayers... The problems confronting Scoggins [the inventor]... were not insecticide problems; they were mechanical closure problems.

So here, the problems confronting the patentee were not baby bottle and accessory drying problems. They were support folding problems to facilitate packaging and storage, exactly the function of the British and Son patents.

We turn then to the remaining claims of the reissue application.

Claims 9 and 10 add to claim 1 "disk holding means." In claim 9 the "disk holding means" is simply defined as being connected to the tray of claim 1 for holding baby bottle disks

in a location isolated from areas of the tray where liquid may collect. Claim 10 specifies that the "disk holding means" is an upstanding boss having a plurality of disk receiving slots. The feature of an upstanding boss or bosses to hold baby bottle disks is clearly shown and described in Swiss Patent 685,919, Exhibit H. See especially Fig. 2 of the Swiss '919 patent, having three bosses 24, each having a slot 32 for a disk 24. Fig. 2 is reproduced below.



This clearly discloses the subject claimed in claims 9 and 10. The use of multiple bosses, each with one slot, in the Swiss '919 patent, rather than a single boss with multiple slots as in claim 10, is simply a matter of design choice. See, e.g., the Kassanchuk '035 patent, Exhibit E, which discloses multiple aligned slots for such discs at Col. 3, lines 20-33, and in Fig. 2. It is submitted that claims 9 and 10 are unpatentable as obvious over the Swiss '919 patent in view of the British '098 patent or the Son '028 patent and, further, in view of the Kassanchuk '035 patent.

Claim 11 depends from claim 1, defining the apparatus of claim 1 as:

[F]urther comprising a plurality of ring support members that are constructed and arranged to support a ring portion of a baby bottle.

Thus, in addition to the article supporting pegs of claim 1, claim 11 requires ring support members mounted to the tray in substantially the same manner as the pegs of claim 1. The ring support members, as set forth in claim 12, further have stops thereon to support baby bottle rings above the tray surface. Bottle drying racks with ring support members to hold the rings above a lower surface are shown in the Swiss '919, the Kassanchuk '035 and the Chang '237 patents, as well as in the Safety 1st and Mommy's Helper publications. Claims 11 and 12 are obvious over any one of these in light of the British and Son patents and their foldable pegs.

Claims 13-17 correspond to features of claims 1 and 3-6, respectively applied to the short pegs, i.e., the ring support members. As discussed above with respect to claims 1 and 3-6, these features are all identically shown in the British '098 and Son '028 patents and, accordingly, claims 13-17 are obvious over the Swiss '919 patent and the other bottle drying art in light of either the British '098 and the Son '028 patents.

Claim 19 is independent and simply claims a tray, bottle support means, and disk holding means connected to the upper face of the tray for holding baby bottle disks in a location isolated from areas of the tray where liquid may collect. Claim 19 does not claim folding pegs and is clearly anticipated by the Swiss '919 patent which discloses each of the claimed features. Claim 20 depends from claim 19 and claims the disk holding means as an upstanding boss with a plurality of disk receiving slots. Claim 20 is obvious over the Swiss '919 patent, as explained above with reference to claim 9, as well as the Kassanchuk '035 patent which discloses a single structure with multiple disk receiving slots.

New claim 22 is independent and essentially repeats claim 1, adding that the pegs are sized to support a baby bottle and including, in the last paragraph, the feature of frictional means connected to the pegs for frictionally engaging the tray as the pegs are moved from a storage to an operative position. Except for the sizing of the pegs to support bottles, this claim, in its entirety, is anticipated by the Son '028 patent which, as explained above, includes all the features of claim 1 as well as "frictional means," the lower wall of member 11, engaging the tray as the

pegs are moved from a storage to an operative position, as discussed above with reference to claims 6 and 7. The sizing of the pegs to support baby bottles is known from the Swiss '919 patent and the other bottle drying art discussed above. Thus, claim 22 is obvious, inter alia, over the Swiss '919 patent in view of the Son '028 patent.

Claims 23-29 depend from claim 22 adding to claim 22 features essentially found in earlier claims. Thus, claim 23 corresponds to the structure of claim 2. Claims 24 and 25, while specifying particulars of the "frictional means" of claim 22, in fact claim features of the "location means" discussed above with reference to claims 6 and 7. As noted in the discussion of claims 6 and 7, frictional means comprising a cam member bearing against a horizontal portion of the upper tray surface, as now detailed in claims 24 and 25, is disclosed in the Son '028 patent. The discussion of claims 6 and 7 also evidences that the Son '028 patent anticipates the features of the "locating means," including the surface of the cam member contacting a cam stop, the cam stop elevated above the tray upper surface and a second surface on the cam bearing against the tray upper surface, all as now set forth in claims 26-29. In this connection, it should be noted that the "location means" of claims 6 and 26, being means clauses, incorporate the corresponding portion of the specification quoted above with reference to the discussion of claims 6 and 7. In view of the foregoing, claims 23-29 are obvious over the Swiss '919 patent in light of the Son '028 patent.

Claim 32 is independent and essentially repeats the limitations of claim 1, adding two further limitations. First, claim 32 requires that the pegs be positioned away from the tray edges so water draining from supported articles will fall within the tray. This concept is, however, disclosed by the Swiss '919 patent as well as by the Safety 1st and Mommy's Helper publications. Additionally, claim 32 requires that one end of the tray be lower than the other end so that water will drain toward the one end. In this connection, the Mommy's Helper publication discloses a tray having a "waterfall lip" extending over a raised sink edge and states:

Excess water drains down "waterfall lip" and into sink—not on your countertop!

Obviously, the other end of the Mommy's Helper tray surface must be raised to function as stated. Fox U.S. Patent 2,879,900, Exhibit M, also discloses bottle drying apparatus in which one side is lower than the other for draining purposes. See also Miguez U.S. Patent 2,936,898,

Exhibit E, and French Patent 403 288, Exhibit N, also disclosing inclined drainage surfaces for dish drying apparatus. Accordingly, claim 32 is obvious over the Swiss '919 patent or the Mommy's Helper publication in view of the Son '028 patent and, further, in view of the Fox '900, Miguez '898 or the French '288 patents.

Independent claim 35 claims the method of drying a baby bottle ring. The claimed method has three steps: first, placing a bottle rack on a horizontal surface; second, simultaneously moving a plurality of ring support members from a storage to an operative position; and, third, placing a ring on a ring support member above the rack surface. The first and third steps are exactly the steps which would inherently be performed in use of the apparatus of inter alia the Swiss '919 patent, the Safety 1st and The Mommy's Helper publications. Use of the device of the Son '028 patent would inherently perform all three steps except that the third step would be performed with a syringe rather than a bottle ring. And as discussed above with regard to obviousness, a baby bottle drying rack with folding pegs would be obvious in light of the art. The structure being obvious, it is submitted that the manner of its use as claimed in claim 32 would be inherent and obvious, as well.

Claims 36-40 recite further steps inherent in the Son '028 patent. Claim 36 simply adds that the ring support members are moved pivotally. Claim 37 recites frictionally engaging the bottle rack surface with structure attached to the ring support member. Claim 38 recites locking the ring support members in their operative position. Claim 39 recites simultaneously moving a plurality of pegs to an operative position. Claim 40 recites that the pegs are moved pivotally. As to claims 36, 39 and 40, the Son '028 patent discloses moving a plurality of supports pivotally and simultaneously. The Swiss '919 patent and the Safety 1st and Mommy's Helper publications all disclose long pegs for bottles and short ring support members. As to claims 37 and 38, the method steps are inherent in the Son '028 patent as discussed above with regard to claims 6 and 7. It is submitted, therefore, that claims 36-40 are obvious over the art.

Claim 41 adds to claim 40 the step of placing a bottle on the peg of claim 39. Again this is shown in the Swiss '919 patent as well as the other bottle drying art above mentioned. Claim 42 recites positioning the ring support members over the rack so water is caught thereby. Claim 43 recites the same positioning for the pegs which support baby bottles. Again, the positioning set forth in claims 42 and 43 is shown in the Swiss '919 patent and the other bottle drying art. Claim 44 recites that planes of rotation of the ring member supports as they pivot is parallel to

the planes of rotation of the pegs. This is a feature of the Son '028 device wherein the supports at either end pivot in parallel planes. Claim 45 claims the method of claim 44 in which the ring support members and the pegs move in the same pivotal direction. Whether the ring supports members and the pegs move in the same or opposite directions is essentially a matter of choice. In any event, pivoting pegs or other members simultaneously in the same pivotal direction is known from Hopkins U.S. Patent 2,441,417, Exhibit O, Poglein Patent 2,039,927, Exhibit P, and Goldstein U.S. Patent 499,881, Exhibit Q. It is submitted that claims 41-45 are obvious in light of the art set forth above.

Claim 46 is another independent method claim essentially the same as claim 35 except that, instead of being directed to baby bottle rings as in claim 35, it is directed to the baby bottles themselves. The method of claim 46 is obvious for the same reasons as is the method of claim 35. Claims 47, 48 and 49, although having the wrong claim dependencies, presumably are intended to depend from claim 46. Claims 47, 48 and 49 correspond to and are obvious for the same reasons as claims 36, 37 and 38.

Finally, we note that claims 18, 30, 31, 33 and 34 all are directed to a cutout on the side of the tray to facilitate lifting the tray. Openings on the side of apparatus for lifting are known. See the cutout in the cover of the apparatus in the Swiss '919 patent. See also the open sides of the bottle drying rack of the Fox '900 patent. It is submitted that these claims claim subject matter obvious in light of the art.

In summary, the prior art anticipates or renders obvious each and every claim of the reissue application. Rejection of all of the claims is urged.

Respectfully submitted,



Charles C. Winchester  
Reg. No. 21,040  
Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110

Attorney for the Protester

PROOF OF SERVICE

The above Protest under 37 CFR 1.291(a) and the accompanying exhibits were served by first class mail, the 2<sup>nd</sup> day of April, 2002, upon the attorney for the applicants, addressed as follows:

John L. Knoble  
Knoble & Yoshida LLC  
Eight Penn Center, Suite 1350  
1628 John F. Kennedy Blvd.  
Philadelphia, PA 19103



Charles C. Winchester  
Attorney for the Protester

20412644.doc